

INITIATIVE 257

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 257 to the Legislature is a true and correct copy as it was received by this office.

1 AN ACT Relating to ensuring government efficiencies through
2 performance audits conducted by the state auditor; amending RCW
3 43.88.160, 43.88.090, and 43.09.050; adding new sections to chapter
4 43.09 RCW; creating a new section; and making an appropriation.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6 **LEGISLATIVE INTENT**

7 NEW SECTION. **Sec. 1.** Inherent in any organization is a tendency
8 to grow and there is always a danger that an entity will become
9 unmanageable and inefficient in the process. In private industry,
10 competition provides the pressure to force efficiencies. If a business
11 does not produce a useful quality product at a reasonable cost, it will
12 not survive. There is no such external pressure in government, so
13 other mechanisms must be created to prevent waste and excessive
14 overhead. Government must do its own policing and the taxpayers who
15 finance government should demand that they do so.

16 We must always remember that every dollar taken from a taxpayer is
17 money that could be used to raise children, pay the mortgage, or
18 provide security for someone's future. Every tax dollar wasted could

1 have helped someone in need. We must be sure that money designated to
2 help those in need is spent on programs that work and is not siphoned
3 away by excessive overhead or needless duplication of effort.

4 The intent of this act is to create a mechanism whereby
5 conscientious public employees and concerned citizens can join together
6 to find ways to improve state government.

7 **MANDATING PERFORMANCE AUDITS OF STATE GOVERNMENT**

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.09 RCW
9 to read as follows:

10 (1) The state auditor shall undertake ongoing independent,
11 objective, and comprehensive performance audits of state government,
12 which shall be performed in accordance with government auditing
13 standards and funded by the general fund.

14 (2) For the purposes of this section, "state government" includes
15 any boards, commissions, departments, committees, agencies, or offices
16 within the legislative or executive branch of state government,
17 including any institution of higher education.

18 (3) The performance audit report must include:

19 (a) Identification of potential cost savings and of any state
20 agency or any program or service now offered by an agency that can be
21 eliminated or transferred to the private sector without injury to the
22 public good and well-being;

23 (b) Recommendations for the elimination of or reduction in funding
24 to various agencies, programs, or services based on the results of the
25 performance audit; and

26 (c) Analysis of gaps and overlaps in programs offered by state
27 agencies and recommendations for improving, dropping, blending, or
28 separating functions to correct gaps or overlaps.

29 (4) The state auditor may require any state agency to provide all
30 information required for completion of any audit, and each state agency
31 shall fully and completely cooperate with the state auditor for the
32 purposes of this section.

33 (5) The state auditor shall contract with private sector
34 professional and technical experts for conducting performance audits
35 and shall provide oversight of such audits.

36 (6) The state auditor shall solicit suggestions for improving
37 government performance from both front-line public employees and

1 government service recipients in the conduct of the audit. The state
2 auditor shall establish a toll-free telephone number at which the
3 public may make suggestions and report government waste, in order to
4 aid the identification of both waste and innovation.

5 (7) The state auditor shall present an audit work plan to a
6 citizens' advisory committee created in section 6 of this act and the
7 joint legislative audit and review committee within sixty days after
8 the effective date of this act. Within sixty days after the state
9 auditor has completed a performance audit of an agency, including the
10 programs, services, and activities operated by the agency, the auditor
11 shall present its final performance audit report to the legislature and
12 the governor and make the report available to the public upon request
13 and on its website.

14 **Sec. 3.** RCW 43.88.160 and 1998 c 135 s 1 are each amended to read
15 as follows:

16 This section sets forth the major fiscal duties and
17 responsibilities of officers and agencies of the executive branch. The
18 regulations issued by the governor pursuant to this chapter shall
19 provide for a comprehensive, orderly basis for fiscal management and
20 control, including efficient accounting and reporting therefor, for the
21 executive branch of the state government and may include, in addition,
22 such requirements as will generally promote more efficient public
23 management in the state.

24 (1) Governor; director of financial management. The governor,
25 through the director of financial management, shall devise and
26 supervise a modern and complete accounting system for each agency to
27 the end that all revenues, expenditures, receipts, disbursements,
28 resources, and obligations of the state shall be properly and
29 systematically accounted for. The accounting system shall include the
30 development of accurate, timely records and reports of all financial
31 affairs of the state. The system shall also provide for central
32 accounts in the office of financial management at the level of detail
33 deemed necessary by the director to perform central financial
34 management. The director of financial management shall adopt and
35 periodically update an accounting procedures manual. Any agency
36 maintaining its own accounting and reporting system shall comply with
37 the updated accounting procedures manual and the rules of the director
38 adopted under this chapter. An agency may receive a waiver from

1 complying with this requirement if the waiver is approved by the
2 director. Waivers expire at the end of the fiscal biennium for which
3 they are granted. The director shall forward notice of waivers granted
4 to the appropriate legislative fiscal committees. The director of
5 financial management may require such financial, statistical, and other
6 reports as the director deems necessary from all agencies covering any
7 period.

8 (2) Except as provided in chapter 43.88C RCW, the director of
9 financial management is responsible for quarterly reporting of primary
10 operating budget drivers such as applicable workloads, caseload
11 estimates, and appropriate unit cost data. These reports shall be
12 transmitted to the legislative fiscal committees or by electronic means
13 to the legislative evaluation and accountability program committee.
14 Quarterly reports shall include actual monthly data and the variance
15 between actual and estimated data to date. The reports shall also
16 include estimates of these items for the remainder of the budget
17 period.

18 (3) The director of financial management shall report at least
19 annually to the appropriate legislative committees regarding the status
20 of all appropriated capital projects, including transportation
21 projects, showing significant cost overruns or underruns. If funds are
22 shifted from one project to another, the office of financial management
23 shall also reflect this in the annual variance report. Once a project
24 is complete, the report shall provide a final summary showing estimated
25 start and completion dates of each project phase compared to actual
26 dates, estimated costs of each project phase compared to actual costs,
27 and whether or not there are any outstanding liabilities or unsettled
28 claims at the time of completion.

29 (4) In addition, the director of financial management, as agent of
30 the governor, shall:

31 (a) Develop and maintain a system of internal controls and internal
32 audits comprising methods and procedures to be adopted by each agency
33 that will safeguard its assets, check the accuracy and reliability of
34 its accounting data, promote operational efficiency, and encourage
35 adherence to prescribed managerial policies for accounting and
36 financial controls. The system developed by the director shall include
37 criteria for determining the scope and comprehensiveness of internal
38 controls required by classes of agencies, depending on the level of
39 resources at risk.

1 Each agency head or authorized designee shall be assigned the
2 responsibility and authority for establishing and maintaining internal
3 audits following the standards of internal auditing of the institute of
4 internal auditors;

5 (b) Make surveys and analyses of agencies with the object of
6 determining better methods and increased effectiveness in the use of
7 manpower and materials; and the director shall authorize expenditures
8 for employee training to the end that the state may benefit from
9 training facilities made available to state employees;

10 (c) Establish policies for allowing the contracting of child care
11 services;

12 (d) Report to the governor with regard to duplication of effort or
13 lack of coordination among agencies;

14 (e) Review any pay and classification plans, and changes
15 thereunder, developed by any agency for their fiscal impact: PROVIDED,
16 That none of the provisions of this subsection shall affect merit
17 systems of personnel management now existing or hereafter established
18 by statute relating to the fixing of qualifications requirements for
19 recruitment, appointment, or promotion of employees of any agency. The
20 director shall advise and confer with agencies including appropriate
21 standing committees of the legislature as may be designated by the
22 speaker of the house of representatives and the president of the senate
23 regarding the fiscal impact of such plans and may amend or alter said
24 plans, except that for the following agencies no amendment or
25 alteration of said plans may be made without the approval of the agency
26 concerned: Agencies headed by elective officials;

27 (f) Fix the number and classes of positions or authorized man years
28 of employment for each agency and during the fiscal period amend the
29 determinations previously fixed by the director except that the
30 director shall not be empowered to fix said number or said classes for
31 the following: Agencies headed by elective officials;

32 (g) Adopt rules to effectuate provisions contained in (a) through
33 (f) of this subsection.

34 (5) The treasurer shall:

35 (a) Receive, keep, and disburse all public funds of the state not
36 expressly required by law to be received, kept, and disbursed by some
37 other persons: PROVIDED, That this subsection shall not apply to those
38 public funds of the institutions of higher learning which are not
39 subject to appropriation;

1 (b) Receive, disburse, or transfer public funds under the
2 treasurer's supervision or custody;

3 (c) Keep a correct and current account of all moneys received and
4 disbursed by the treasurer, classified by fund or account;

5 (d) Coordinate agencies' acceptance and use of credit cards and
6 other payment methods, if the agencies have received authorization
7 under RCW 43.41.180;

8 (e) Perform such other duties as may be required by law or by
9 regulations issued pursuant to this law.

10 It shall be unlawful for the treasurer to disburse public funds in
11 the treasury except upon forms or by alternative means duly prescribed
12 by the director of financial management. These forms or alternative
13 means shall provide for authentication and certification by the agency
14 head or the agency head's designee that the services have been rendered
15 or the materials have been furnished; or, in the case of loans or
16 grants, that the loans or grants are authorized by law; or, in the case
17 of payments for periodic maintenance services to be performed on state
18 owned equipment, that a written contract for such periodic maintenance
19 services is currently in effect and copies thereof are on file with the
20 office of financial management; and the treasurer shall not be liable
21 under the treasurer's surety bond for erroneous or improper payments so
22 made. When services are lawfully paid for in advance of full
23 performance by any private individual or business entity other than as
24 provided for by RCW 42.24.035, such individual or entity other than
25 central stores rendering such services shall make a cash deposit or
26 furnish surety bond coverage to the state as shall be fixed in an
27 amount by law, or if not fixed by law, then in such amounts as shall be
28 fixed by the director of the department of general administration but
29 in no case shall such required cash deposit or surety bond be less than
30 an amount which will fully indemnify the state against any and all
31 losses on account of breach of promise to fully perform such services.
32 No payments shall be made in advance for any equipment maintenance
33 services to be performed more than three months after such payment.
34 Any such bond so furnished shall be conditioned that the person, firm
35 or corporation receiving the advance payment will apply it toward
36 performance of the contract. The responsibility for recovery of
37 erroneous or improper payments made under this section shall lie with
38 the agency head or the agency head's designee in accordance with
39 regulations issued pursuant to this chapter. Nothing in this section

1 shall be construed to permit a public body to advance funds to a
2 private service provider pursuant to a grant or loan before services
3 have been rendered or material furnished.

4 (6) The state auditor shall:

5 (a) Report to the legislature the results of current post audits
6 that have been made of the financial transactions of each agency; to
7 this end the auditor may, in the auditor's discretion, examine the
8 books and accounts of any agency, official, or employee charged with
9 the receipt, custody, or safekeeping of public funds. Where feasible
10 in conducting examinations, the auditor shall utilize data and findings
11 from the internal control system prescribed by the office of financial
12 management. The current post audit of each agency may include a
13 section on recommendations to the legislature as provided in (c) of
14 this subsection.

15 (b) Give information to the legislature, whenever required, upon
16 any subject relating to the financial affairs of the state.

17 (c) Make the auditor's official report on or before the thirty-
18 first of December which precedes the meeting of the legislature. The
19 report shall be for the last complete fiscal period and shall include
20 determinations as to whether agencies, in making expenditures, complied
21 with the laws of this state. The state auditor is authorized to
22 perform or participate in (~~performance verifications and~~) performance
23 audits (~~as expressly authorized by the legislature in the omnibus~~
24 ~~biennial appropriations acts or in the performance audit work plan~~
25 ~~approved by the joint legislative audit and review committee)). A
26 performance audit for the purpose of this section is an objective and
27 systematic examination of evidence for the purpose of providing an
28 independent assessment of the performance of a government organization,
29 program, activity, or function in order to provide information to
30 improve public accountability and facilitate decision making by parties
31 with responsibility to oversee or initiate corrective action.
32 Performance audits include economy and efficiency and program audits.~~

33 (i) Economy and efficiency audits include determining (A) whether
34 the entity is acquiring, protecting, and using its resources, such as
35 personnel, property, and space, economically and efficiently; (B) the
36 causes of inefficiencies or uneconomical practices; and (C) whether the
37 entity has complied with laws and regulations on matters of economy and
38 efficiency.

1 (ii) Program audits include determining (A) the extent to which the
2 desired results or benefits established by the legislature or other
3 authorizing body are being achieved; (B) the effectiveness of
4 organizations, programs, activities, or functions; and (C) whether the
5 entity has complied with significant laws and regulations applicable to
6 the program.

7 The state auditor, upon completing an audit for legal and financial
8 compliance under chapter 43.09 RCW (~~or a performance verification~~),
9 may report to the joint legislative audit and review committee or other
10 appropriate committees of the legislature, in a manner prescribed by
11 the joint legislative audit and review committee, on facts relating to
12 the management or performance of governmental programs (~~where such~~
13 ~~facts are discovered incidental to the legal and financial audit or~~
14 ~~performance verification. The auditor may make such a report to a~~
15 ~~legislative committee only if the auditor has determined that the~~
16 ~~agency has been given an opportunity and has failed to resolve the~~
17 ~~management or performance issues raised by the auditor. If the auditor~~
18 ~~makes a report to a legislative committee, the agency may submit to the~~
19 ~~committee a response to the report. This subsection (6) shall not be~~
20 ~~construed to authorize the auditor to allocate other than de minimis~~
21 ~~resources to performance audits except as expressly authorized in the~~
22 ~~appropriations acts or in the performance audit work plan. The results~~
23 ~~of a performance audit conducted by the state auditor that has been~~
24 ~~requested by the joint legislative audit and review committee must only~~
25 ~~be transmitted to the joint legislative audit and review committee)).~~

26 (d) Be empowered to take exception to specific expenditures that
27 have been incurred by any agency or to take exception to other
28 practices related in any way to the agency's financial transactions and
29 to cause such exceptions to be made a matter of public record,
30 including disclosure to the agency concerned and to the director of
31 financial management. It shall be the duty of the director of
32 financial management to cause corrective action to be taken within six
33 months, such action to include, as appropriate, the withholding of
34 funds as provided in RCW 43.88.110. The director of financial
35 management shall annually report by December 31st the status of audit
36 resolution to the appropriate committees of the legislature, the state
37 auditor, and the attorney general. The director of financial
38 management shall include in the audit resolution report actions taken
39 as a result of an audit including, but not limited to, types of

1 personnel actions, costs and types of litigation, and value of recouped
2 goods or services.

3 (e) Promptly report any irregularities to the attorney general.

4 (f) Investigate improper governmental activity under chapter 42.40
5 RCW.

6 (7) The joint legislative audit and review committee may:

7 (a) Make post audits of the financial transactions of any agency
8 and management surveys and program reviews as provided for in chapter
9 44.28 RCW as well as performance audits and program evaluations. To
10 this end the joint committee may in its discretion examine the books,
11 accounts, and other records of any agency, official, or employee.

12 (b) Give information to the legislature or any legislative
13 committee whenever required upon any subject relating to the
14 performance and management of state agencies.

15 (c) Make a report to the legislature which shall include at least
16 the following:

17 (i) Determinations as to the extent to which agencies in making
18 expenditures have complied with the will of the legislature and in this
19 connection, may take exception to specific expenditures or financial
20 practices of any agencies; and

21 (ii) Such plans as it deems expedient for the support of the
22 state's credit, for lessening expenditures, for promoting frugality and
23 economy in agency affairs, and generally for an improved level of
24 fiscal management.

25 **Sec. 4.** RCW 43.88.090 and 1997 c 372 s 1 are each amended to read
26 as follows:

27 (1) For purposes of developing budget proposals to the legislature,
28 the governor shall have the power, and it shall be the governor's duty,
29 to require from proper agency officials such detailed estimates and
30 other information in such form and at such times as the governor shall
31 direct. The estimates for the legislature and the judiciary shall be
32 transmitted to the governor and shall be included in the budget without
33 revision. The estimates for state pension contributions shall be based
34 on the rates provided in chapter 41.45 RCW. Copies of all such
35 estimates shall be transmitted to the standing fiscal committees (~~on~~
36 ~~ways and means~~) of the house of representatives and senate at the same
37 time as they are filed with the governor and the office of financial
38 management.

1 The estimates shall include statements or tables which indicate, by
2 agency, the state funds which are required for the receipt of federal
3 matching revenues. The estimates shall be revised as necessary to
4 reflect legislative enactments and adopted appropriations and shall be
5 included with the initial biennial allotment submitted under RCW
6 43.88.110. The estimates must reflect that the agency considered any
7 alternatives to reduce costs or improve service delivery identified in
8 the findings of ((a)) any performance audit of the agency by the state
9 auditor or the joint legislative audit and review committee. Nothing
10 in this subsection requires performance audit findings to be published
11 as part of the budget.

12 (2) Each state agency shall define its mission and establish
13 measurable goals for achieving desirable results for those who receive
14 its services and the taxpayers who pay for those services. Each agency
15 shall also develop clear strategies and timelines to achieve its goals.
16 This section does not require an agency to develop a new mission or
17 goals in place of identifiable missions or goals that meet the intent
18 of this section. The mission and goals of each agency must conform to
19 statutory direction and limitations.

20 (3) For the purpose of assessing program performance, each state
21 agency shall establish program objectives for each major program in its
22 budget. The objectives must be consistent with the missions and goals
23 developed under this section. The objectives must be expressed to the
24 extent practicable in outcome-based, objective, and measurable form
25 unless an exception to adopt a different standard is granted by the
26 office of financial management and approved by the legislative
27 committee on performance review. The office of financial management
28 shall provide necessary professional and technical assistance to assist
29 state agencies in the development of strategic plans that include the
30 mission of the agency and its programs, measurable goals, strategies,
31 and performance measurement systems.

32 (4) Each state agency shall adopt procedures for continuous self-
33 assessment of each program and activity, using the mission, goals,
34 objectives, and measurements required under subsections (2) and (3) of
35 this section.

36 (5) It is the policy of the legislature that each agency's budget
37 proposals must be directly linked to the agency's stated mission and
38 program goals and objectives. Consistent with this policy, agency
39 budget proposals must include integration of performance measures that

1 allow objective determination of a program's success in achieving its
2 goals. The office of financial management shall develop a plan to
3 merge the budget development process with agency performance assessment
4 procedures. The plan must include a schedule to integrate agency
5 strategic plans and performance measures into agency budget requests
6 and the governor's budget proposal over three fiscal biennia. The plan
7 must identify those agencies that will implement the revised budget
8 process in the 1997-1999 biennium, the 1999-2001 biennium, and the
9 2001-2003 biennium. In consultation with the legislative fiscal
10 committees, the office of financial management shall recommend
11 statutory and procedural modifications to the state's budget,
12 accounting, and reporting systems to facilitate the performance
13 assessment procedures and the merger of those procedures with the state
14 budget process. The plan and recommended statutory and procedural
15 modifications must be submitted to the legislative fiscal committees by
16 September 30, 1996.

17 (6) In the year of the gubernatorial election, the governor shall
18 invite the governor-elect or the governor-elect's designee to attend
19 all hearings provided in RCW 43.88.100; and the governor shall furnish
20 the governor-elect or the governor-elect's designee with such
21 information as will enable the governor-elect or the governor-elect's
22 designee to gain an understanding of the state's budget requirements.
23 The governor-elect or the governor-elect's designee may ask such
24 questions during the hearings and require such information as the
25 governor-elect or the governor-elect's designee deems necessary and may
26 make recommendations in connection with any item of the budget which,
27 with the governor-elect's reasons therefor, shall be presented to the
28 legislature in writing with the budget document. Copies of all such
29 estimates and other required information shall also be submitted to the
30 standing committees on ways and means of the house of representatives
31 and senate.

32 **Sec. 5.** RCW 43.09.050 and 1992 c 118 s 6 are each amended to read
33 as follows:

34 The auditor shall:

35 (1) Except as otherwise specifically provided by law, audit the
36 accounts of all collectors of the revenue and other holders of public
37 money required by law to pay the same into the treasury;

1 (2) In his or her discretion, inspect the books of any person
2 charged with the receipt, safekeeping, and disbursement of public
3 moneys;

4 (3) Investigate improper governmental activity under chapter 42.40
5 RCW;

6 (4) Inform the attorney general in writing of the necessity for the
7 attorney general to direct prosecutions in the name of the state for
8 all official delinquencies in relation to the assessment, collection,
9 and payment of the revenue, against all persons who, by any means,
10 become possessed of public money or property, and fail to pay over or
11 deliver the same, and against all debtors of the state;

12 (5) Give information in writing to the legislature, whenever
13 required, upon any subject relating to the financial affairs of the
14 state, or touching any duties of his or her office;

15 (6) Report to the director of financial management in writing the
16 names of all persons who have received any moneys belonging to the
17 state, and have not accounted therefor;

18 (7) Authenticate with his or her official seal papers issued from
19 his or her office;

20 (8) Make his or her official report annually on or before the 31st
21 of December;

22 (9) Undertake ongoing independent, objective, and comprehensive
23 performance audits of state government, which shall be performed in
24 accordance with government auditing standards and funded by the general
25 fund.

26 **CREATING A CITIZENS' OVERSIGHT COMMITTEE FOR**
27 **GOVERNMENT ACCOUNTABILITY**

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.09 RCW
29 to read as follows:

30 (1)(a) The citizens' oversight committee for government
31 accountability is established as a panel composed of five citizen
32 members appointed by the leadership of the house of representatives who
33 are not affiliated with the party of the state auditor. The members of
34 the citizens' oversight committee shall select a chair from one of the
35 five citizen members. The committee may create subcommittees and
36 advisory panels to assist in its deliberations and may contract for
37 specialized expertise.

1 (b) The committee may solicit charitable gifts, grants, and
2 donations that are placed into the citizens' oversight committee for
3 government accountability account, created in the custody of the state
4 treasurer, and used to offset general fund moneys appropriated for such
5 purposes. The treasurer shall transfer money from the account to the
6 general fund, when money is available in the account.

7 (2) The citizens' oversight committee for government accountability
8 shall submit reports and recommendations to the state auditor regarding
9 the initiation and scope of performance audits, and for achieving,
10 increasing, and improving state government efficiency, effectiveness,
11 organization, operations, accountability, and cost savings. The
12 committee shall provide recommendations regarding funding for future
13 audits.

14 (3) The citizens' oversight committee shall be appointed within
15 thirty days after the effective date of this act. A new citizens'
16 oversight committee will be formed and members appointed within sixty
17 days after future elections of the state auditor.

18 (4) All members of the citizens' alliance shall be reimbursed for
19 travel expenses incurred in the performance of duties of the citizens'
20 oversight committee in accordance with RCW 43.03.050 and 43.03.060.
21 All members shall receive a per diem of seventy dollars per day when
22 performing duties of the citizens' oversight committee.

23 **APPROPRIATION OF FUNDS FOR PERFORMANCE AUDITS**

24 NEW SECTION. **Sec. 7.** The sum of three million dollars, or as much
25 thereof as may be necessary, is appropriated from the general fund to
26 the state auditor for the biennium ending June 30, 2003, for the
27 purposes of this act.

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